

RECONSTRUCTION REGULATION OF AUTHORITY OF LEGISLATIVE MEMBER IN PREVENTING CRIMINAL CRIMINAL ACCOUNT BASED ON JUSTICE VALUES

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Abstract

The House of Representatives is a central legislative body that represents the people in parliament. The authority of each legislative member and as an institution has been regulated by legislation. The authority of the House of Representatives as an institution is huge, and the great power tends to be misused, such as committing a criminal act of corruption. Corruption is a crime that is very detrimental to the state's finances and hinders the government to prosper its people, then a justice-based arrangement is needed to prevent corruption within The House of Representatives as a legislative body.

Keywords : Legislative, Corruption, and Justice

A. INTRODUCTION

The authority of each legislative member shall be governed by the provisions of the laws and regulations which are not unlike the regulation of the authority of the legislature institutionally. This means that the principle applies that all rules applicable to a legislature should be a rule also for each individual, ie each member of the relevant legislative body. The only difference lies in the fact that sometimes people do not want if the implementation of a regulatory authority of a legislative body by person can be a measure of an assessment of institutional performance.

More desirable is the exercise of a legislative authorization arrangement by each individual legislative member only determining an appraisal of performance restricted to individual members or individual. This second type of assessment, is an assessment of each person, or individual by a member of a legislature. The value assigned to a person by a legislative member can not be used as a measure of assessment of the legislative institution. However, returning to the first principle as stated above, it is generally within the society of the person who believes that: "a speck of tilth destroys the milk of a barrel". The act of one legislative member or person per person or an individual may result in poor judgment, or otherwise a

good value for a legislative institution in which the legislative member becomes part of it.

Arrangements for legislative bodies as an institution to prevent from the commission or occurrence of corruption in the legislative body, in principle the same and concise with the arrangement for every legislative member to avoid corruption. Just one legislative member who commits a criminal act of corruption, then it can principally be said to be the same as the failure of regulation of the entire legislative body is prevented from doing a corruption.

The national parliament or national legislature elected by a five-yearly general election is the main pillar of a national integrity system based on democratic responsibility to the people it represents. The way to obtain this mandate is crucial to the quality of legitimacy, and to the willingness of the people it represents to receive it and be recognized by the state.

As a governing body, regulatory and representative, parliament or modern legislature is the center of the struggle for the realization and maintenance of good governance and to combat corruption. In the State of the Republic of Indonesia the authority of the People's Legislative Assembly is indefinite as provided for in Article 71 of the Law of the Republic of Indonesia Number 17 of 2014 concerning the People's Consultative

Assembly, the People's Legislative Assembly, the Regional Representatives Council, and the Regional People's Legislative Assembly or hereinafter abbreviated as UU-MD3.

Authority as stipulated in the Law-MD3, namely the authority to form a law discussed with the president for mutual consent. Furthermore, the Parliament also has the authority to give consent or not to give consent to the government regulation in lieu of law (perpu) proposed by the president to become law. The House of Representatives is also authorized to discuss the draft law submitted by the President or Parliament.

The wide authority of the DPR as stipulated in the above-mentioned MD3 Law may cause the holder of authority to misuse it. Lord Acton suggested that power tends to corrupt, absolute power corrupts absolutely. What Acton pointed out suggests that the potential for corruption can, among other things, be caused by the size of the authority held by an institution, whether by someone. What is shown in the UU-MD3 demonstrates enormous powers, which may, according to Lord Acton, have the potential or even absolute power of corruption.

Corruption is one of the same societal diseases as other types of crime such as theft, has existed since human society on this earth, the problem is the increasing corruption in line with the progress of prosperity and technology. There are even symptoms in the experience that show, the more advanced the development of a nation, the increasing need also and encourage people to do corruption.¹

Corruption is a disease that has plagued the country of Indonesia. Like illness, corruption must be cured so as not to spread to other parts of the body. Against the decomposed body parts and can not be saved anymore, then the body parts must be amputated so that the virus does not spread to other parts that can endanger the soul of the patient. Similarly, the criminal act of corruption.²

¹ Andi Hamzah, 2005, Comparison of Corruption Eradication in Various Countries, Book 1, Sinar Grafika, Jakarta, page 1

² Jawade Hafidz Arsyad, 2013, Corruption In Perspective of State Administration Law, Sinar Grafika, Jakarta, page 3.

Reconstruction of the regulation of authority in the law is absolutely necessary, as in the Law of the Republic of Indonesia Number 31 Year 1999 concerning the Eradication of Corruption jo. Of Law of the Republic of Indonesia Number 20 Year 2001 on Amendment to Law of the Republic of Indonesia Number 31 Year 1999, so there is a balance in special criminal sanctions contained in the Act, especially the balance and values of justice that occur in the community. So what are the powers of legislative members who have the potential to cause corruption. And how are the actions of legislative members who commit corruption. And then what is the reconstruction of the authority facing justice-based law.

B. DISCUSSION

1. The legislative authority's authority has the potential to lead to the occurrence of corruption;

After the amendment of the 1945 Constitution of the State of the Republic of Indonesia, the Indonesian state administration system has undergone many changes including the House of Representatives. Intentional change aims to create a more democratic, effective, and accountable deliberation / representation body. Law No. 27 of 2009 on the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representatives Council, and the Regional People's Legislative Assembly, hereinafter referred to as the old MD3 Act, are regulated by these four institutions. Basically it has made arrangements towards the realization of a democratic, effective, and accountable deliberative / representative body. However, since Law No. 27 of 2009 on MD3 has long been enacted, there are still some matters deemed necessary to be reorganized through the replacement of Law Number 27 Year 2009. The replacement of Law Number 27 Year 2009 is based on new content material which has exceeded 50% (fifty percent) of the substance of Law Number 27 Year 2009.

The reimbursement of Law Number 27 Year 2009 is primarily intended to conform with the development of the constitution,

such as in the formation of law based on Law Number 12 Year 2011 concerning the Formation of Laws and Regulations, Decision of the Constitutional Court Number 92 / PUU-X / 2012 on the Judicial Review of Law Number 27 Year 2009 regarding the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representatives Council, and the Regional People's Legislative Assembly, which canceled several provisions that reduced the authority of the DPD in the legislative process. Other developments are Decision of the Constitutional Court Number: 35 / PUU-XI / 2013 on Testing Against Law Number 27 Year 2009 which reduces the authority of Parliament in the discussion of APBN. In addition to the above reasons, the potential for corruption also forms the basis for the establishment of a new MD3 Act. This is evident from the efforts to improve the performance of each representative body in carrying out its duties and functions based on the principle of offsetting checks and balances, principles of clean and authoritative governance and at the same time increasing the authority and trust of the community towards the representation function of representative institutions that -for the aspirations of the people.

The subsequent authority of the Parliament under the new MD3 Law is to consider the DPD's consideration of the draft laws on the State Budget and the draft laws relating to taxes, education, and religion. The House of Representatives is also in charge of discussing with the president by taking into account the balance of DPD and giving approval to the draft law on the state budget proposed by the president.

The issue of the DPR's budget right is increasingly complicated when looking at the current state of Indonesia's implementation of the practice is the exposure of budget corruption by members of the House which is closely related to the discussion of the Draft State Budget.³ Law Number 17 Year 2003

3 The case of Wisma Athletes, Hambalang Cases, the Case of Procurement of the Koran, and others became the example of several members of the House

regarding State Finance and Law Number 27 Year 2009 which not only regulates the mechanism of discussion of RAPBN in DPR at strategic macro level, but also technically up to five units (organizational units, functions, program, activity, and type of expenditure) made some elements of civil society to submit judicial review to the Constitutional Court (MK). In Decision No. : 35 / PUU-XI / 2013, the Constitutional Court stipulates that the phrase "activities and types of expenditures" is unconstitutional, so that the mechanism of discussion of the RAPBN in the DPR is currently only up to 'unit three' (organizational units, functions and programs). The involvement of the House of Representatives in the discussion of the Draft State Budget has been reduced, in fact in 2016 there are still members of the DPR who are arrested for budget corruption cases.⁴

On May 22, 2014, the Constitutional Court adjudicated the review of the State Finance Law and the MD3 Law through Decision of the Constitutional Court. : 35 / PUU-XI / 2013 on the budget right of the House of Representatives. One of the basic tests of both laws is the abuse of authority over the budget function of the House of Representatives (DPR) which then impeded several members of the People's Legislative Assembly in corruption cases. This is due to the DPR's budget rights regulated in both laws giving too much authority, detailed, and technical nature. In Article 15 Paragraph (5) of the State Finance Law as well as Article 107 Paragraph (1) letter c, Article 156 letter c number 2 letter (c), Article 157 paragraph (1) letter c, Article 159 paragraph (5) the involvement of the DPR in the discussion of the Draft State Budget is starting from the

of Representatives who were involved in corruption by misusing the budget right authority owned by the House of Representatives.

4 Pada 13 Januari 2016 KPK menangkap Anggota DPR RI inisial DWP dalam kasus suap proyek jalan di Maluku. Lihat Tempo, "Suap Anggota DPR Damayanti Diduga Tawarkan 20 Paket Proyek". <https://nasional.tempo.co/read/news/2016/01/28/063740112/suap-anggota-dpr-damayanti-diduga-tawarkan-20-paket-proyek>, accessed 4 April 2016.

organizational units, functions, programs, activities, and types of expenditure.

In the verdict, the Constitutional Court declared related to the budgeting in the form of APBN, the budget function of the House of Representatives did not go too far in making budget planning but only gave approval of the plan proposed by the president. This is because the principle of power sharing and checks and balances resulted in the authority of the People's Legislative Assembly (DPR) restricted and affirmed in the supervision function of the government; while the planning function is included in the executive function, which is to plan and execute or execute the course of government.

According to the Constitutional Court, detailed discussion up to the level of activities and types of expenditure ministries / institutions can cause constitutional problems when viewed from the DPR's constitutional authority in carrying out budgetary functions. The issue stems from the DPR's participation in discussing the detailed RAPBN up to activities and types of expenditure. It is not in accordance with the function and the authority of the DPR as a representative institution that should not participate in determining the very detailed planning. The activities and types of expenditure are the affairs of the administration of the state which is carried out by the president as the planner and the executive of the state budget.

Verdict MK No. : 35 / PUU-XI / 2013, although inviting a lot of appreciation, does not immediately eliminate the practice of buying and selling influence in the House. As mentioned earlier, in the beginning of 2016, the Corruption Eradication Commission (KPK) again arrested members of the People's Legislative Assembly who received bribes in the management of the road construction budget of the Ministry of Public Works and Public Housing (PUPR) in Maluku. Therefore, although the phrase "activities and types of expenditures" has been eliminated, corrupt practices trading in the DPR's budget right still occur.

Experience before the issuance of

Decision No. MK. : 35 / PUU-XI / 2013 shows that although the discussion of the RAPBN is detailed to activities and types of expenditure, the transparency rate is still low. Even the tendency of discussion of RAPBN is often done in private. As a result incrementalism and routine continue to recur. This is the problem, if the detail only low transparency level makes the state budget has not been maximized for the greatest to the people's prosperity, then what if the discussion is not detailed.

2. Penalties for legislators who commit criminal acts of corruption;

The verdict in corruption cases raised to be described as a manifestation of the act of referring to the regulation of the authority of legislative members to prevent corruption is the Decision of the Supreme Court of the Republic of Indonesia (MARI). The verdict was terminated in the Supreme Court (MA) Consultative Meeting on Monday, September 15, 2014 by Artidjo Alkostar, the Chief Younger Criminal. As a member of the Assembly, namely Mohamad Askin, and M. S. Lumme. In the Assembly there are also some Ad Hoc Tipikor judges to the Supreme Court as Members. The verdict was issued after MARI examined corruption (corruption) cases in the Cassation level. The case involved the defendant Lutfi Hasan Ishaaq. Relevance of the Decision as described in Decision Number: 1195 K / Pid.Sus / 2014, the defendant Luthfi Hasan Ishaaq was declared a member of the legislature, namely Member of the House of Representatives 2009-2014 period when the decision was made.

The Court of Appeal ruling was filed by appeal, with the deed on the request for appeal. : 26 / Akta.Pid.Sus / TPK / 2014 / PN. JKT.PST. The cassation was made by the Court of Corruption Court at the Central Jakarta District Court. In the cassation deed was explained that on May 9, 2014 the appeal applicant I / prosecutor to the Commission has filed an appeal against the decision of the High Court. Cassation is not only filed by the public prosecutor at the KPK. It was also

filed with the deed on the request for appeal. : 26 / Akta.Pid.Sus / TPK / 2014 / PN.JKT. PST. The deed was made by Pani-tera of the Criminal Court of Corruption at the Central Jakarta District Court. In the deed, it was explained that on June 23, 2014, the appellant II / defendant, in this case the defendant Corruption Legislative Member filed an appeal against the decision of the Court of Appeal, The defendant was previously detained by the investigator from January 31, 2013 until February 19, 2013. The extension of PU-KPK from February 20, 2013 until March 31, 2013. The defendant has been extended again by the Chairman of the Corruption Court (Corruption Court) in the District Court (PN), first from April 1, 2013 until April 30, 2013. While the second extension by the Chairman of the Court Corruption Court from 1 May 2013 until 30 May 2013. The defendant also detained PU-KPK from the 30th May 2013 up to June 18, 2013. By the Panel of Judges of the Corruption Court on the PN, the defendant was detained from June 17, 2013 until July 16, 2013.

The extension of detention was carried out by the Head of the Corruption Court on PN from July 17, 2013 to September 14, 2013. The defendant received a rendition by the Corruption Court Judge on the PN from 15 August 2013 until 17 September 2013. The first extension by KP Tipikor at the Court High (PT) from October 19, 2013 until November 17, 2013. The second extension by the Head of Corruption Court at PT from November 18, 2013 until December 17, 2013. Detention was also conducted by the Panel of Judges of Corruption Court at PT since December 13, 2013 until the date of January 11, 2014. Then Extension again by Plt. Vice Chairman of the Corruption Court at PT from January 12, 2014 until March 12, 2014.

The first extension by the Chairman of MARI at the request of the Corruption Court to the PT for thirty days from March 13, 2014 until April 11, 2014. The second extension by MARI at the request of the Corruption Court at PT for thirty days from the date of April 12, 2014 until the 11th May 2014.

Based on Stipulation of Chairman of MARI for her (ub) Young Chief of Criminal No.1230 / 2014 / S.490.Tah.Sus / PP / 2014 / MA. May 9, 2014 The defendant is ordered to be held for fifty days, effective from May 9, 2014 up to June 27, 2014.

Renewal based on Chairman Decision of MARI u.b. Young Chief of Crimes No.1230 / 2014 / S.490.Tah.Sus / PP / 2014 / MA. dated May 9, 2014 The defendant was ordered to be detained for sixty days, starting from June 28, 2014 until August 26, 2014. Another extension based on Stipulation of Chairman MARI u.b. Young Chief of Criminal No.1918 / 2014 / S.490.Tah.Sus / PP / 2014 / MA. On August 6, 2014, the defendant was ordered to be detained for thirty days, starting from August 27, 2014 until September 25, 2014. Another extension based on Stipulation of Chairman MARI u.b Young Criminal Chairman No. : 1919/2014 / S.490.Tah.Sus / PP / 2014 / MA. On August 6, 2014, the defendant's corruption legislative members were ordered to be held for thirty days, starting from September 26, 2014 until October 25, 2014. The judges also sentenced the defendant to a penalty.

3. Reconstruction of authority in the face of justice-based law.

The results of reconstruction, the regulation of the legislative members' authority should prevent the crime of justice-based corruption. The fact in deconstruction proves very clearly that it is the legislator, or the element in the legislature itself that exhibits evil behavior. This means what it does is an attempt to counter the reforms.

The following is presented a recruitment matrix of the Law of the Republic of Indonesia Number 17 of 2014 concerning the People's Consultative Assembly, the People's Legislative Assembly, the Regional Representatives Council, and the Regional People's Legislative Assembly, namely:

No	Article Before Reconstruction	The weakness of the Article	The article after reconstruction
1	Article 71 Sub-Article d of Law RI Number 17 Year 2014, reads: "Considering the consideration of the DPD on the draft laws on the State Budget and the draft laws relating to taxes, education and religion".	The budget field is one of the most strategic land for corruption practices. Parliament members should be suspected of marking up the State Budget and Expenditure Plan.	Paying attention to the DPD's consideration of the draft laws on the State Budget and the design of tax-related, educational and religious laws". And overseen by an independent team formed in law.
2	Article 71 Sub-Article e of Law Number 17 Year 2014 reads: "Discussing with the President by taking into account the balance of DPD and giving approval to the draft laws on State Budget proposed by the President"	Giving approval to the Draft State Budget (RAPBN) is very vulnerable and often used for personal and certain interests. This can be proved by the results of a ruling from a corruption criminal proceeding conducted by a legislative member.	Giving approval to the State Revenue and Expenditure Plan is very vulnerable and often used for personal and certain interests. This can be proved by the results of a ruling from a corruption criminal proceeding conducted by a legislative member.

The law which is the product of the legislative body, in which case involved legislators who become the representation of all the Indonesian people must still be viewed as a law to be obeyed. Abuse of power that occurs, in this case as shown there are members of the legislature who commit a criminal act of corruption can not be used as a reason to be pessimistic about the power of the law which in principle as long as validly applicable can not be contested and is the basis of the most concrete justice.

Judging from the above it can be concluded this research has spawned a new legal theory, namely "Pancasila Authority Theory". The Authority Theory of Pancasila is the state power given to the state organizers to organize the government in order to achieve the goal of the state to protect the entire nation of Indonesia and the whole of Indonesia's blood spill and educate the nation's life based on Pancasila..

C. CONCLUSION

The authority of a large legislative member may potentially lead to potential misusing of wealth which causes corruption due to the authority set forth in Article 71 point d and e of Law Number 17 Year 2014, namely: Article 71 letter d: "Taking into consideration the consideration of the DPD on the draft laws on the State Budget and the draft laws relating to taxes, education, and

religion"; And Article 71 letter e: "Discussing with the president by taking into consideration the consideration of the DPD and giving the objectives of the draft law on the state budget proposed by the president".

The punishment of legislative members who commit corruption as stipulated in Article 10 of the Criminal Code and additional criminal sanction of the revocation of the rights of the convicted politician who has been convicted of a criminal act of corruption. This case, the convicted person is no longer given the opportunity to hold a public office that is vulnerable to Corruption, Collusion and Nepotism; Then the authority of legislators who should take precautions against corruption in deconstruction proves very clearly that it is legislators, or elements within the legislature itself that display evil behavior. The problem of incompatibility between norms and reality, resulting in maintenance, or the growing and growing public cynicism of the existing criminal system. Furthermore, it also leads to the failure of criminal prevention, in this case including corruption. Another result, namely the encouragement of criminal activities.

It is advisable to the competent authorities to adopt a new MD3 Act to establish a special in-dependent agency to exercise oversight of the duties and authorities of legislators; To the judiciary in giving judgments against legislative members who are proven to commit corruption in order not only to give the main punishment

but also to provide additional punishment, namely the removal of political rights. With the existence of additional criminal penalty can cause deterrent effect for perpetrators of corruption crime and money laundering crime. There are several examples of cases in the Commission

to Clear Corruption (KPK in Indonesia), where the perpetrator has been convicted of a criminal act of corruption, but after leaving the prison, retained public office such as a regent and so forth. This is very much to the public sense of justice.

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